

Message Text

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C O N F I D E N T I A L STATE 030864

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QUOTE

C O N F I D E N T I A L STATE 030864

E.O. 11652: GDS

TAGS: PFOR, CPRS, EIND, CY, TU

SUBJECT: PROTECTION OF U.S. PROPERTY IN NORTHERN CYPRUS
(CMC); TURKISH GSP ELIGIBILITY

REF: A) STATE 5301; B) 74 NICOSIA 3584; C) NICOSIA
282; D) 75 ANKARA 9156

1. DEPTOFFS AND TREASURY REP MET WITH ALLAN BAKEWELL OF CYPRUS MINES CORPORATION (CMC) JANUARY 14. CORRESPONDENCE BETWEEN CMC AND TFSC AND CMC AND AZOT SANAYII T.A.S. BROUGHT BY BAKEWELL TO MEETING AND FULL MEMCON WILL BE POUCHED EM-BASSIES ANKARA AND NICOSIA.

2. BAKEWELL REVIEWED THE RECORD WITH US OVER A TWO-HOUR MEETING. (SUMMARY BELOW IS BASED ON MEETING AND DOCUMENTATION SUBSEQUENTLY PROVIDED BY BAKEWELL). CMC AND AZOT CONCLUDED A CONTRACT IN LATE 1973 FOR THE SHIPMENT OF 75,000
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TONS OF FLOTATION PYRITES, PLUS OR MINUS 20 AT AZOT'S OPTION; CONTRACT WAS \$6.67 PER TON FOB KARAVOSTASSI IN SHIP'S HOLD, WITH CMC SECURING FREIGHT ACCORDING TO A COMPLEX FORMULA RESULTING FROM AZOT'S APPARENT INSISTENCE ON UNREALIS-

TICALLY LOW BASE FREIGHT RATE PER TON. SHIPMENTS BEGAN WITH OPENING OF LETTER OF CREDIT IN HARD CURRENCY DRAWN ON SWISS BANK; BECAUSE OF FREIGHT FORMULA, DELIVERY PERIOD WAS OPEN-ENDED. SHIPMENTS UNDER THE CONTRACT CONTINUED UNTIL THE TURKISH INVASION IN JULY 75, A LAST SHIPMENT BEING HASTILY

LOADED WITHOUT ATTENDING TO FORMAL DOCUMENTS IN THE FACE OF IMMINENT HOSTILITIES. AZOT'S PAYMENT ON THIS SHIPMENT WAS HELD UP, BUT ULTIMATELY WAS MADE. AFTER THIS SHIPMENT, SOME 40,000 TONS REMAINED UNSHIPED UNDER THE CONTRACT (INCLUDING OPTION).

3. CMC MINE WAS SEPARATED FROM STOCKPILE AND PORT BY FINAL GREEN LINE. BECAUSE TRAINED GREEK WORKERS HAD FLED BEFORE THE INVASION, AND PROSPECTS OF RESUMED OPERATIONS WERE SO GRIM, CMC DECIDED TO ABANDON ITS ACTIVITIES IN CYPRUS. LENGTHY NEGOTIATIONS WITH THE GOC ARE CULMINATING IN A TRANSACTION INVOLVING CMC'S SURRENDER OF ITS MINING LEASES WITHOUT COMPENSATION. BAKEWELL STRESSED CMC'S LONG AND FRIENDLY RELATIONS WITH THE GOC IN DESCRIBING TRANSACTION, WHICH WOULD KEEP DOOR OPEN FOR CMC IN EVENT CONDITIONS ON ISLAND PERMIT RESUMED OPERATION. CMC ALSO WISHES IN THIS WAY TO AVOID GOC ENVIRONMENTAL REHABILITATION DEMANDS. BAKEWELL CONFIRMED WHEN TRANSACTION COMPLETE, IN ABOUT A MONTH, CMC WILL HAVE NO CONTINUING INTEREST IN GOC MINE, WHETHER BY MANAGEMENT CONTRACT OR OTHERWISE.

4. AZOT RESUMED SHIPMENTS IN OCTOBER 1975 WITH VESSELS IT HAD CHARTERED; ON OCTOBER 3, THE SS ABDULLAH WAS LOADED WITH GOC APPROVAL, THE GOC ACCEPTING CUSTOMS DOCUMENTS WHICH HAD BEEN PREPARED BY TRUSTED FORMER TURKISH-CYPRIOT CUSTOMS OFFICIALS. IN A SWIFT REVERSAL, THE GOC REFUSED TO PERMIT FURTHER SHIPMENTS AND CLOSED PORT NEXT DAY. CMC KEPT IN ORAL COMMUNICATION WITH CIVIL (TFSC) AND TURK MILITARY AUTHORITIES THROUGH LOCAL EMPLOYEES; WHEN GOC DISAPPROVAL COMMUNICATED, TURK MILITARY ORDERED LOADING OF SECOND VESSEL (TAHIR KIRAN) AND IMPLIED THREATS
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AGAINST CMC INTERESTS. (LOCAL CMC DOCK SUPERVISOR COMPLIED, NOTING ON SHIPPING PAPERS MOVEMENT WAS MADE "UNDER DURESS".) CMC CABLED AZOT OCTOBER 8 THAT IT WAS UNABLE TO LOAD, AND ADVISED CANCELLATION OF OTHER CHARTERED VESSELS. ON OCTOBER 9, CMC CABLED AGAIN NOTING THAT IT WAS UNABLE TO LOAD THE TAHIR KIRAN. AZOT REPLIED THROUGH CMC'S ANKARA AGENT (POLAR) ON OCTOBER 9, AND DIRECTLY ON OCTOBER 10, THAT CMC CABLES HAD CREATED SERIOUS SITUATION IN LIGHT OF CHARTER COMMITMENTS, AND THAT VESSEL ENGAGEMENT WAS FINAL; IN EVENT CMC FAILED TO LOAD EVERY RESPONSIBILITY BELONGED TO CMC. ON OCTOBER 10, CMC CABLED AZOT INVOKING FORCE MAJEURE PROVISION OF 1973 CONTRACT AS GROUND FOR NON-PERFORMANCE, AND DISCLAIMED RESPONSIBILITY. NO FURTHER WRITTEN COMMUNI-

CATION ENSUED BETWEEN CMC AND AZOT. CMC'S ESTIMATES OF UNAUTHORIZED SHIPMENTS SUBSEQUENT TO ABDULLAH ARE CONTAINED IN CMC PRESIDENT LIEBER'S LETTER TO DEPUTY LEGAL ADVISER MARK FELDMAN OF JANUARY 8, 1976 (POUCHED).

5. CMC SOUGHT TO MAKE PAYMENT DEMAND FOR THESE SHIPMENTS ON AZOT THROUGH ITS LONDON (MINING AND METALLURGICAL AGENCY M&MA) AND ANKARA (POLAR) AGENTS; A WRITTEN DEMAND FOR PAYMENT WAS SENT FROM CMC LOS ANGELES TO AZOT THROUGH M&MA REP WHO WENT TO ANKARA IN JANUARY-FEBRUARY OF 1975. LETTER WAS SEEN BY AZOT BUT NOT DELIVERED SINCE IT PRODUCED "RESENTMENT", AND TALKS WERE SUSPENDED, AZOT STILL CLAIMING INTENT TO PAY CMC. IT DOES NOT APPEAR THESE TALKS WERE RESUMED.

6. AVAILABLE CORRESPONDENCE WITH TFSC BEGINS WITH MARCH 1,, 1975 LETTER FROM OREK REFERENCING A FEBRUARY MEETING WITH FORMER CMC CYPRUS SECRETARY JENNER; LETTER NOTED TAKING OF MATERIALS FROM CMC PROPERTY BY FORMER EMPLOYEE PRIOR TO TFSC PROTECTION OF PREMISES, AND SOUGHT CMC PARTICIPATION IN AN INVENTORY. ORAL REPLY THROUGH LOCAL EMPLOYEE NOTED ACCESS TO SITE HAD BEEN DENIED, AND INSUFFICIENT NUMBER OF SKILLED WORKERS TO PERFORM SATISFACTORY INVENTORY; CMC DENIED ANY ABUSES BY LOCAL EMPLOYEES PRIOR TO TIME CMC ACCESS DENIED. (WE NOTED TO BAKEWELL THAT OREK LETTER IMPLIED ACCESS WOULD BE PERMITTED. BAKEWELL AGREED.)

7. OREK WROTE BAKEWELL ON APRIL 25, AGAIN SEEKING CMC CO-CONFIDENTIAL

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OPERATION IN AN INVENTORY, SETTING A JUNE 31 DEADLINE FOR CMC'S RESPONSE, AND DECLINING ANY RESPONSIBILITY FOR THE SITE SHOULD CMC REFUSE. BAKEWELL COMMENTED THAT CMC EQUATED LETTER WITH DEMAND FOR CMC REGISTRATION OF PROPERTY UNDER TFSC PROCEDURE, AND REFUSED; THIS WAS, HE SAID, ABOUT THE FOURTH DEADLINE OREK HAD ESTABLISHED. AGAIN AN ORAL RESPONSE WAS MADE. ON JUNE 3, OREK WROTE LIEBER IN LOS ANGELES, STATING TFSC ANXIOUS TO SEE CMC RESUME OPERATIONS, NOTING BAKEWELL HAD NOT COOPERATED IN TAKING INVENTORY, AND ASSUMED GOC PRESSURE WAS BEING BROUGHT TO BEAR ON COMPANY. DISCLAIMING ANY RESPONSIBILITY FOR PROPERTY "NATURE AND AMOUNT OF WHICH IS OFFICIALLY UNKNOWN TO ME", OREK MENTIONED ENORMOUS PROTECTIVE EXPENSES WHICH WERE BEING "SET ASIDE FOR FUTURE SETTLEMENT. WE ARE ALSO TRYING TO DISPOSE OF THE PYRITE LEFT-OVERS IN THE SAME MANNER." LIEBER RESPONDED JUNE 26, INDICATING CMC HAD NO INTENT TO ABANDON PROPERTY OR PRODUCTS, THAT SHIPMENTS OF PYRITES TO AZOT WERE WITHOUT CMC CONSENT, AND THAT M&MA HAD REQUESTED PAYMENT. OREK WROTE BAKEWELL A THIRD TIME ON JUNE 20 ON SUBJECT

8. OREK WROTE BAKEWELL A THIRD TIME ON JUNE 20 ON SUBJECT OF INVENTORY AND TAKING OF CMC PROPERTY BEFORE TFSC PROTECTION BY "AUTHORIZED AND UNAUTHORIZED PERSONS"; TFSC HAD NO

INTENTION WHATEVER TO CONFISCATE CMC PROPERTY, BUT WISHED TO PROTECT ITSELF FROM COMPENSATION CLAIMS FOR UNATTENDED PROPERTY. BAKEWELL AGAIN DECLINED TO PARTICIPATE IN AN INVENTORY; HE STATED THAT CMC WAREHOUSE RECORDS, IF UNDISTURBED, REMOVED ANY NEED FOR ONE UNLESS LOOTING HAD OCCURRED.

9. PERHAPS MOST SIGNIFICANT LETTER WENT FROM OREK JULY ,6 TO LIEBER; OREK WROTE THAT TFSC HAD NOT TAKEN POSSESSION OF CMC PROPERTY, AND CMC WELCOME TO TAKE CHARGE AT ANY TIME. HE REFERRED AGAIN TO COSTS OF PROTECTION, MENTIONING THEY WERE BEING "DEBITED" TO CMC "ACCOUNT", AND RAISED FOR FIRST TIME LONGSTANDING ISSUE OF CMC DUST DAMAGE TO LEFKA CITRUS GROVES, RESERVING TFSC RIGHTS. HE CLOSED: "AS REGARDS THE PYRITE MR. BAKEWELL WOULD WELL REMEMBER THAT IT HAD BEEN SHIPPED WITH YOUR COMPANY'S TACIT APPROVAL". THIS LETTER, AS WELL AS SUBSEQUENT LETTERS FROM OREK OCTOBER 3 (ON PROTECTIVE COSTS AND DUST DAMAGE) AND DENKTAS OCTOBER 10 (FORWARDING STUDY ON DUST DAMAGE), WENT UNANSWERED.

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10. BAKEWELL DENIED ANY AGREEMENT OR UNDERSTANDING ON PYRITE SHIPMENTS. CMC HAD NO KNOWLEDGE OF ANY SPECIAL ACCOUNTS IT COULD DRAW ON. HE WAS AT A LOSS TO EXPLAIN OREK'S STATEMENT IN THE JULY 26 LETTER AND HAD NO HARD INFORMATION ON ANY TRANSACTION BETWEEN TFSC AND GOT/AZOT. BAKEWELL STATED THAT AZOT HAD NOT MADE ANY OFFER OF PAYMENT FOR TIHIR KIRAN AND SUBSEQUENT UNAUTHORIZED SHIPMENTS (COMPARE REF B). (ALTHOUGH ABDULLAH SHIPMENT WAS DULY DOCUMENTED, PAYMENT WAS CONSIDERED BY CMC PART OF OVERALL PROBLEM AND NOT PRESSED).AZOT DURING JANUARY/FEBRUARY CONTACTS WITH CMC AGENTS LAST YEAR APPARENTLY OFFERED TO PAY ONLY IF COMPANY PRESENTED BILL AND PROPER DOCUMENTATION; CMC, OF COURSE, COULD NOT DO THIS WITH RESPECT TO POST-ABDULLAH SHIPMENTS. SUCH SHIPMENTS NOW FAR EXCEEDED CONTRACT AMOUNT; MOREOVER, CMC SUSPECTED TURKISH STATE AGENCIES OTHER THAN AZOT HAVE BEEN TALKING DELIVERY.

11. BAKEWELL MENTIONED CONCERN AT CONTINUATION OF SHIPMENTS, BUT GAVE NO SPECIFICS AS PER REF C. HE CONFIRMED TURKS HAD ATTEMPTED SELL PYRITES IN GERMANY, BUT CMC HAD TAKEN STEPS TO WARN OFF POTENTIAL BUYERS. HE EXPRESSED FEAR THAT TURKS MIGHT ATTEMPT TO SELL COPPER BEHIND IRON CURTAIN.

12. WE EXPLORED PROBLEMS POSED BY THE RECORD, AND QUESTIONS OF PROCEDURE, INCLUDING LACK OF FORMAL DEMAND ON AZOT FOR PAYMENT AND LACK OF RESPONSE TO TFSC ALLEGATIONS OF AN UNWRITTEN UNDERSTANDING. BAKEWELL INDICATED CMC UNWILLING IN PAST TO INCUR RISK OF GOC RETALIATION FOR DEALINGS WITH GOT, TFSC; SUCH CONTACTS WERE "DELICATE" MATTER, AND CMC FELT COMFORTABLE PURSUING CLAIM AGAINST

AZOT ONLY NOU. CMC, HOWEVER, STILL UNWILLING TO DEAL WITH TFSC; NOT ONLY DID IT NOT WISH TO SOUR RELATIONS WITH GOC, BUT CMC FEARED TFSC OFFSETS FOR PROTECTION COSTS, DUST DAMAGES AND TFSC TAXATION (CMC WILLING PAY GOC TAXATION ON ANY RECOVERY). BAKEWELL STRESSED TFSC IN NO WAY PARTY TO CMC-AZOT CONTRACT, AND THAT IF MONIES HAD PASSED TO TFSC, CMC VIEW WAS THAT AZOT SHOULD GET THEM BACK.

13. AT MEETING AND IN SUBSEQUENT PHONE CONVERSATIONS WITH
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LIEBER AND CMC COUNSEL APEL, WE CONFIRMED CMC PREPARED TO NEGOTIATE WITH AZOT THROUGH POLAR IN ANKARA AND TO MAKE FORMAL DEMAND ON AZOT IN WRITING, PROBABLY NEXT WEEK, FOR ACCOUNTING AND PAYMENT. CMC WILL INDICATE IN TRANSMITTAL LETTER TO POLAR (BUT NOT IN LETTER TO AZOT) READINESS TO NEGOTIATE SETTLEMENT COVERING REMAINING ASSETS IN XEROS AS WELL AS PAST SHIPMENTS. CMC WOULD SELL PYRITE STOCK-PILE AT 1973 CONTRACT PRICE (SLIGHTLY ADJUSTED ON BASIS QUALITY ASSESSMENT TO \$6.87 PER TON), WHICH CMC CONSIDERS FAVORABLE; CONCENTRATES AND PRECIPITATES WOULD BE DISPOSED OF AT MARKET VALUE. GOOD FAITH NEGOTIATIONS WILL REQUIRE AZOT TO DISPENSE WITH DOCUMENTARY DEMANDS MADE IN PAST AND TO ACCOUNT FOR ACTUAL SHIPMENTS. FYI: LIEBER ALSO ADVISES DEPT THAT TFSC NOW ATTEMPTING TO PLACE CONCENTRATES IN EUROPEAN MARKET. END FYI.

14. FOR ANKARA: DEPARTMENT WILL REMAIN IN CONTACT WITH CMC AND ADVISE EMBASSY OF ACTUAL TIMING OF POLAR REPRESENTATION TO AZOT. UNLESS IT PERCEIVES OBJECTION, EMBASSY SHOULD SEEK EARLY OPPORTUNITY TO ADVISE TUNCBILEK THAT CMC WILL PURSUE CLAIM WITH AZOT THROUGH POLAR IN NEXT FEW DAYS. TUNCBILEK CAN BE APPRISED OF CMC INTENTIONS AND THEIR ASSERTION THAT THERE IS NO ARRANGEMENT WITH AZOT ON PYRITE SHIPMENTS AND THAT COMPANY IS UNAWARE OF EXISTENCE OF ANY ACCOUNT BEING MAINTAINED IN ITS BEHALF (REF D). IT SHOULD BE NOTED THAT AN OBLIGATION TO COMPENSATE FOR PYRITE DELIVERIES RECEIVED RUNS FROM AZOT TO CMC, AND NOT TO TFSC OR ANY OTHER PARTY. EMBASSY SHOULD STRESS IMPORTANCE WE ATTACH TO RESOLVING CMC CLAIM IN GSP CONTEXT AND THAT GOT EFFORTS TO FURTHER CMC/POLAR-AZOT DISCUSSIONS WOULD BE BENEFICIAL. TEXTS OF CMC LETTER TO AZOT AND TRANSMITTAL LETTER TO POLAR WILL BE CABLED AS SOON AS RECEIVED BY DEPARTMENT. EMBASSY ANKARA SHOULD LEND GOOD OFFICES AND APPROPRIATE ASSISTANCE TO SUPPORT POLAR APPROACH TO AZO AND SHOULD FOLLOW PROGRESS OF NEGOTIATIONS. SISCO

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